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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/761,347      | 01/22/2004  | Yoshihiro Oba        | 3119-102            | 3254             |

52190 7590 03/15/2006

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EXAMINER

TAYLOR, NICHOLAS R

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2141

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|   |                                       |                                   |  |
|---|---------------------------------------|-----------------------------------|--|
| <b>Advisory Action</b><br><b>Before the Filing of an Appeal Brief</b> | <b>Application No.</b><br>10/761,347  | <b>Applicant(s)</b><br>OBA ET AL. |  |
|   | <b>Examiner</b><br>Nicholas R. Taylor | <b>Art Unit</b><br>2141           |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-21 and 25-27 were presented for examination and are rejected.

### ***Response to Arguments***

1. Applicant's arguments filed February 14<sup>th</sup>, 2006 have been fully considered but they are deemed not persuasive.

2. In the remarks, applicant argued in substance that:

(A) Prior art of Acharya fails to teach sending network provider advertising information to the client, as the server (100,200) is not a "client". It is well known that "a client is a node or software program that requests services from another node or software program". Acharya further fails to send advertising information to the server, or specify with which network the client desires access.

As to point (A), servers are also capable of acting as clients when a general definition of the term "client" is applied; a good example is the definition supplied by Applicant above. For example, when two servers exclusively communicate with each other, their transmissions alternate between one acting as the current "client", while the other is the "server". In this sense, the server in Acharya is acting as a client when requesting services from another node.

Advertising information is also transmitted between server and client through the transactions that take place in the network. The server is made aware of the available service provider networks to connect with, and must specify one in order to communicate via that connection. Paragraphs 0017-0022 of Acharya outline the methods of transmitting this advertising information.

(B) Prior art of Acharya does not teach multiple separate communication tunnels provided between the networks. Further, Acharya does not teach network connections to at least two serving networks.

As to point (B), cited paragraph 0022 explicitly states, "These tunnels, once established, can be assigned to *different virtual interfaces* on the general purpose computer, which each interface corresponding to a *different ISP link*" (emphasis added).

(C) The combination of Acharya and Forsl w is improper because Forsl w is "irrelevant" to the present invention.

As to point (C), the combination of Forsl w would enable the benefits of a mobile virtual private network providing secure client data access (Forsl w, paragraph 0065). Both Forsl w and Acharya teach IP layer implementations, and Acharya teaches a virtual interface methodology that would benefit from the VPN security and management techniques taught by Forsl w.

(D) The combination of Acharya and Le is improper because Le is directed to a different layer of network functionality and no useful purpose would be achieved by the combination.

As to point (D), both are network management systems that teach implementations on the IP layer (see Acharya, paragraph 0022 and Le, abstract). See also the motivation given in the previous office action.

***Claim Rejections - 35 USC § 102***

3. The rejections under 35 U.S.C. 102(e) as applied to claims 1, 3-6, 9, 10, 13, 17, 22, and 25 are unchanged and are recited in a previous FINAL office action mailed November 11<sup>th</sup>, 2005.

***Claim Rejections - 35 USC § 103***

4. The rejections under 35 U.S.C. 103(a) as applied to claims 2, 7, 8, 11, 12, 14-16, 18-21, 26, and 27 are unchanged and are recited in a previous FINAL office action mailed November 11<sup>th</sup>, 2005.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

Art Unit: 2141

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor  
Examiner  
Art Unit 2141

  
RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER